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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
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Newspaper/Radio Cross-Ownership	)	MM Docket No. 96-197
Waiver Policy	)	
	)	

To: The Commission

REPLY COMMENTS OF MORRIS COMMUNICATIONS CORPORATION AND STAUFFER COMMUNICATIONS, INC.

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SUMMARY

Morris Communications ("Morris") and its wholly owned subsidiary, Stauffer Communications, Inc. ("Stauffer") strongly support the opening comments filed by the Newspaper Association of America, Gannett Co., Inc., Pulitzer Publishing Co., the National Association of Broadcasters, and other parties who urge the Commission to use this proceeding to begin the process of eliminating the anachronistic and discriminatory newspaper/broadcast cross-ownership restrictions. In the interim, and as a minimum first step, Morris and Stauffer urge the Commission to adopt a broad and flexible waiver policy which takes into account the abundant diversity and strong competition present among information providers and advertising outlets in virtually every market, and which will allow publishers and radio station licensees to bring the acknowledged benefits of common ownership to their audiences.

The Commission's newspaper/radio waiver policy should include a broad presumptive waiver standard which would permit common ownership of daily newspapers and radio stations in any market in which it is demonstrated that a sufficient level of diversity and competition will continue to exist notwithstanding the proposed combination. In establishing the threshold for such presumptive waivers, the FCC should employ a realistic definition of the geographic scope of the market in question, based upon established industry standards and, where appropriate, actual service contours. Further, the Commission should take into account the enormous growth in the number and variety of competing information providers and advertising outlets since the adoption of the cross-ownership restrictions in 1975. Moreover, the presumptive waiver standard should not be limited to markets of a specified size or rank. On the contrary, as the Commission itself has expressly recognized, even in smaller markets such as Topeka, Kansas and Amarillo,

Texas, where Morris and Stauffer currently operate newpspaper/radio combinations pursuant to temporary waivers, there is "a multiplicity of alternative media services."

In addition to such a presumptive standard, the Commission's new waiver policy should include relief for grandfathered station/newspaper combinations and other facilities with a substantial history of common ownership and operation in the public interest. The Commission also should take into account the records of public service programming and other contributions that have been made by jointly owned newspapers and radio stations, and adopt a waiver policy that favors the perpetuation of such combinations. Permitting the sale of previously grandfathered stations to a single owner, or the reacquisition of previously commonly-owned properties, will not have any appreciable impact on diversity in the marketplace, and will permit the co-owners to take advantage of operational economies and synergies that facilitate improved service to the public. Finally, the FCC should afford applicants who do not meet the threshold for presumptive waiver the opportunity, on a case-by-case basis, to demonstrate specific programming and other public service benefits from joint operation that would justify waiver.

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REPLY COMMENTS OF MORRIS COMMUNICATIONS CORPORATION AND STAUFFER COMMUNICATIONS, INC.

Morris Communications Corporation ("Morris") and its wholly-owned subsidiary, Stauffer Communications, Inc. ("Stauffer"), hereby submit their reply comments in the above-captioned proceeding,[1] which was initiated by the Commission to consider changes to its existing policies governing requests for waiver of the newspaper/radio cross-ownership restrictions embodied in Section 73.3555(d)(1)-(2) of the Commission's Rules. For the reasons set forth below, Morris and Stauffer strongly support the opening comments filed by the Newspaper Association of America ("NAA"), Gannett Co., Inc. ("Gannett"), Pulitzer Publishing Company ("Pulitzer"), the National Association of Broadcasters ("NAB"), Donrey Media Group ("Donrey"), and other parties who urged the Commission to use this proceeding to begin the process of eliminating the anachronistic and discriminatory newspaper/broadcast cross-

[1] See Notice of Inquiry, 11 FCC Rcd 13003 (1996) ("Notice of Inquiry").

ownership restrictions. Pending repeal of the rules, and as a minimum first step toward long overdue regulatory relief for newspaper publishers and broadcasters, Morris and Stauffer urge the Commission to adopt a broad and flexible waiver policy which recognizes the abundant diversity and strong competition present among information providers and advertising outlets in virtually every market, and which will allow publishers and radio station licensees to bring the acknowledged benefits of common ownership to their audiences.

I. MORRIS AND STAUFFER NEWSPAPER AND RADIO HOLDINGS.

As the Commission's records will reflect, Stauffer currently is the licensee of four radio stations: WIBW(AM) and WIBW-FM in Topeka, Kansas, and KGNC(AM) and KGNC-FM in Amarillo, Texas. Stauffer also owns or controls and operates the Topeka Capital-Journal, a daily newspaper published in Topeka, and nineteen other daily newspapers. Stauffer's parent, Morris, either directly or through subsidiaries, owns and operates the Amarillo Daily News-Globe Times and eight other daily newspapers:

By way of background, Morris acquired control over Stauffer pursuant to Commission consent granted in Stauffer Communications, Inc., 10 FCC Rcd 5165 (1995). Prior to the merger with Morris, Stauffer had been the licensee of television station WIBW-TV as well as WIBW(AM) and WIBW-FM in Topeka. In addition, Stauffer had long controlled the Topeka Capital-Journal. The ownership by Stauffer of the Topeka broadcast and daily newspaper properties, however, had been grandfathered when the FCC adopted the cross-ownership limitations in 1975 and, thus, was not subject to mandatory divestiture prior to the Morris/Stauffer transaction. Stauffer also controlled KGNC(AM) and KGNC-FM in Amarillo, where Morris operates a daily newspaper, as well as eight additional television stations in other markets.

During the pendency of the original Morris/Stauffer transfer application, renewal applications were filed for the Topeka and Amarillo radio properties. As a consequence, it became necessary to spin off the licenses of the four radio stations, through pro forma assignments to the Stauffer Topeka Radio Trust and the Stauffer Amarillo Radio Trust, respectively, so that the transfer of control of Stauffer to Morris could be approved expeditiously and the merger consummated. In Stauffer Communications, Inc., 10 FCC Rcd 5165 (1995), the Commission approved the transfer of control of WIBW-TV and the other eight Stauffer television stations to Morris and granted an 18-month waiver of Section 73.3555(d)(3) to permit the continued common ownership of the Topeka television and newspaper properties pending disposition of the television station. The Commission expressly found that

> the market of Topeka hosts a multiplicity of alternative media services. In addition, the instant television-newspaper combination [i.e., WIBW(TV), as well as WIBW(AM) and WIBW-FM, and the Topeka Capital-Journal] has existed for several years without undue adverse effects on the public interest.

10 FCC Rcd at 5165-66. Accordingly, the Commission concluded that temporary waiver of the cross-ownership restriction "will not appreciably affect the principles of diversity or competition in the circumstances present in this case." Id. at 5165.

Following the consummation of the Stauffer/Morris merger, all of the Stauffer television properties, including WIBW-TV, were sold to Benedek Broadcasting Corporation. See FCC File Nos. BALCT-960111IQ et seq. In addition, after the Topeka and Amarillo radio license renewal applications were granted, Stauffer filed applications for consent to re-acquire WIBW(AM)/-FM and KGNC(AM)/-FM from the two Trusts to which the radio stations had been assigned. Those applications were granted by the Commission in Stauffer Amarillo Radio Trust, 11 FCC Rcd 14865 (1996). In that decision, the Commission granted Stauffer temporary (12-month) waivers of the newspaper/radio cross-ownership restriction with respect to the ownership of WIBW(AM)/-FM and the Topeka Capital-Journal and of KGNC(AM)/-FM and the Amarillo Daily News-Globe Times. The Commission stated:

> We find that temporary waivers of the radio-newspaper cross-ownership rules will not appreciably affect diversity or competition in either the Topeka or the Amarillo markets under the circumstances presented in this case. As we have found previously, the Topeka market hosts a multiplicity of alternative media services. See [Stauffer Communications, Inc., 10 FCC Rcd] at 5165-66. . . . . Stauffer has provided a showing which indicates that Amarillo also hosts a multiplicity of alternative media services.

Stauffer Amarillo Radio Trust, 11 FCC Rcd at 14868. The WIBW(AM)/-FM and KGNC(AM)/-FM assignments were consummated effective December 31, 1996, and Stauffer currently is operating the radio stations and co-located newspapers pursuant to the temporary waivers granted by the Commission. In accordance with the terms of the FCC's decision, however, the radio stations and newspapers in each market are separately staffed and, therefore, are unable to take full advantage of the numerous synergies and efficiencies that might be generated through common ownership and operation of the facilities.

II. PENDING OUTRIGHT REPEAL OF THE NEWSPAPER/BROADCAST CROSS-OWNERSHIP RESTRICTIONS, THE COMMISSION SHOULD ADOPT A LIBERAL WAIVER POLICY FOR RADIO LICENSEES.

Morris' and Stauffer's experience with common ownership of broadcast and newspaper properties in Topeka and Amarillo confirms the contentions of the NAA, Gannett, Pulitzer and numerous other commenting parties that, whatever validity they may have had in 1975, the Commission's newspaper/broadcast cross-ownership restrictions are unnecessary and counterproductive in the modern, highly diversified and technologically advanced mass media marketplace, unfairly single out broadcasters and newspaper publishers for discriminatory treatment, and raise serious constitutional concerns. Radio stations and daily newspapers alike face extensive and ever-increasing competition from a wide variety of information providers, many of which were non-existent when the rules were adopted more than twenty years ago. Moreover, the Commission and/or Congress have eliminated or relaxed former ownership restrictions -- if they ever existed -- in most other sectors of the mass media field in recognition of the level of diversity and competition in the marketplace and the difficulties faced by single-outlet operators struggling to compete in a multi-channel, multimedia environment.[2] Elimination or substantial relaxation of the outdated newspaper/broadcast cross-ownership restrictions would free newspaper publishers and broadcasters to take advantage of the natural economies and opportunities for improved service to their communities that can be generated by combined operations, and enable them to provide more and better news and informational programming to their audiences.

A. The Commission's New Waiver Policy Should Reflect That, Even in Smaller Markets, Publishers and Station Owners Face Intense Competition from a Broad and Rapidly Growing Array of Information Providers.

1. The Initial Comments Demonstrate That in the Past Two Decades the Media Marketplace Has Experienced Explosive Growth in Both the Number and Variety of Competing Information Providers.

The great majority of parties filing comments in this proceeding recognized the revolutionary growth in traditional broadcasting as well as in cable television service that has

[2] See NAA Comments at 26-41; Gannett Comments at 3; Pulitzer Comments at 2 ff. See also Comments of ABC, Inc. ("ABC Comments") at 6-12.

characterized the two decades following the adoption of the newspaper/broadcast cross-ownership restrictions in 1975. Further, as numerous commentors noted, a vast array of new multichannel services and competitive video and audio alternatives (e.g., videocassettes, wireless cable, DBS, satellite DARS, and the Internet) has emerged in recent years to provide consumers with more and more programming and information options.[3] In addition to growth in the number and variety of media outlets, moreover, there has been a notable increase in local, regional, and national news programming as "talk radio," suburban, ethnic, and other specialty newspapers, national publications such as USA Today, and cable and Internet news services (both national and local in orientation) have proliferated. Broadcasters and publishers also face rigorous and ever-increasing competition in the sale of advertising from cable system operators, direct mail services, national and local magazines, outdoor advertising companies, yellow pages, and other competitors. Here, again, the Internet looms as a potential competitor with virtually limitless possibilities for reaching broad or specialized audiences with information on products and services.[4]

The explosive growth in the media marketplace has by no means been confined to the largest markets. On the contrary, even smaller markets such as Topeka and Amarillo -- which currently are ranked by Nielsen as the 141st and 126th largest television markets, respectively, -- today enjoy access to a large and varied array of competing outlets for news, information, entertainment, and advertising. Accordingly, Morris and Stauffer urge the Commission to adopt

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[3] See, e.g., NAA Comments at 8-23; ABC Comments at 6-10; Gannett Comments at 3.

[4] See NAA Comments at 23-26; ABC Comments at 17-21, 36-37; Comments of Malrite Communications Group, Inc. ("Malrite Comments") at 4-7; Pulitzer Comments at 6-7.

a flexible waiver standard that is not limited to stations and newspapers in markets of a certain size or rank, but permits waivers in any market in which it is shown that sufficient diversity and competition will continue to exist to satisfy consumer and advertiser needs notwithstanding the proposed broadcast/newspaper combination.

2. The Commission Itself Has Previously Recognized That the Topeka and Amarillo Markets Enjoy Abundant Media Diversity.

As noted above, in its decision granting a temporary waiver of the television/newspaper cross-ownership rule to permit Morris to acquire control of the Stauffer properties in Topeka, the Commission expressly found that "the market of Topeka hosts a multiplicity of alternative media services." Stauffer Communications, Inc., 10 FCC Rcd at 5165. Specifically, the agency observed that "the Topeka market is served by fourteen radio stations, four television stations, one low power television station and an abundance of cable television systems." Id. Again, in granting Stauffer its current temporary waivers for ownership of the newspaper/radio combinations in Topeka and Amarillo, the Commission examined the markets involved and found that the combinations would not "appreciably affect diversity or competition." Stauffer Amarillo Radio Trust, 11 FCC Rcd at 14868. Specifically, the Commission pointed to showings by Stauffer which indicated that the Topeka-Lawrence-Osage radio market is served by 15 radio stations, while the Topeka Designated Market Area ("DMA") includes four television stations licensed to Topeka as well as four low power television stations. Id. at 14867. Similarly, Stauffer showed that the Amarillo-Canyon radio market is served by 26 radio stations, and that the Amarillo DMA is served by at least six television stations (five of which are licensed to Amarillo), at least six LPTVs, and at least one television translator station. Id.

3. A More Thorough Examination of These Two Markets Reveals the Existence of Numerous Competing Information Providers in Addition to the Broadcast Competitors Identified by the Commission.

The foregoing figures, however, take into account only FCC-authorized broadcast facilities in the defined areas and, Morris and Stauffer submit, greatly understate the number and variety of competitors their facilities actually face in each of their respective markets. For example, the attached materials prepared by WIBW(AM)/-FM management (Appendix A) show that at least thirteen radio stations and five television stations are licensed to communities within the Topeka "Metro" counties as identified by Arbitron (Shawnee, Osage, Jackson, Wabaunsee, and Jefferson), and that an additional 17 radio stations have a sufficient listenership to be listed in the Fall 1996 Arbitron report for Topeka. In addition to the Stauffer properties, the Topeka Metro also is the home of ten other newspapers, five cable systems, and a host of direct mail, yellow pages, outdoor, and other advertising services. If the Topeka DMA is considered, an additional 22 radio stations and one additional television station enter the mix, along with 23 more newspapers (including four dailies), and numerous additional cable and alternative advertising vehicles.

The WIBW-FM primary service contour, moreover, takes in a substantial area that is not included in the Topeka Metro or DMA, but in which the station of course faces further competition (from 10 more radio stations, an additional TV station, a host of competing newspapers and cable systems, and additional direct mail services, outdoor advertising companies, and yellow pages publishers). The WIBW(AM) daytime 0.5 mV/m contour covers a far larger area still, and brings that station into competition with literally hundreds of information providers and advertising vehicles throughout the eastern half of Kansas as well as adjacent portions of Nebraska, Iowa, Missouri, and Oklahoma.

The Amarillo information and advertising markets, in which KGNC(AM), KGNC-FM, and the Amarillo Daily News-Globe Times are participants, are equally diverse and competitive. The attached materials prepared by the management of the Amarillo radio (Appendix B) stations show that the Morris/Stauffer outlets compete with 22 other radio stations, five television stations, two cable systems, and dozens of print, video, and other alternative information providers within Arbitron's Amarillo Metro Area alone. The service area of the Amarillo FM extends well beyond the Metro and brings Stauffer's radio stations (and the co-located newspaper) into competition with a substantially larger number of media voices. The Arbitron "Total Survey Area," or TSA, which provides one definition of the broader geographic market in which KGNC(AM) and KGNC-FM compete,[5] includes at least eighteen more radio stations, fourteen additional cable systems and many more alternative sources of news, information and advertising availabilities. The AM service area extends farther still, and increases the number of competitors exponentially.[6] The Amarillo media listings also include several "on-line" Internet

[5] The Amarillo Metro includes Potter and Randall Counties. The TSA includes an additional 26 counties in Texas, two in New Mexico, and one in Oklahoma. The Arbitron TSA corresponds generally, but not exactly, to Nielsen's Amarillo DMA, which is used for television ratings purposes.

[6] While more powerful radio stations are able to serve larger areas, they inevitably face greater competition from a larger number of broadcast, print, and other providers. Accordingly, Morris and Stauffer agree with other commenting parties who urged the Commission to avoid any attempt to "weight" the facilities involved in a market analysis. The key consideration in determining the level of diversity and competition in a market is the availability, not the current effectiveness, of alternative media outlets. See NAA Comments at 44-46; Comments of Cox Enterprises, Inc. and Media General, Inc. ("Cox Comments") at 16; Malrite Comments at 4-7.

services, periodicals, and other alternative media that provide still further competition for the Stauffer radio stations and the daily newspaper in various segments of their respective markets. A full range of comparable alternatives exist in Topeka and, indeed, in virtually every market nationwide.

In short, even in smaller markets, ranked far below the Top 25 or Top 50 cutoffs suggested by some commenting parties, daily newspaper publishers and radio broadcasters such as Morris and Stauffer face extensive competition from a wide variety of established and emerging information providers, the great majority of which are not limited to a single outlet, but are free to operate on a multichannel or multimedia basis.[7] Accordingly, Morris and Stauffer urge the Commission to adopt a strong presumptive waiver policy for newspaper/radio cross-ownership that recognizes the enormous growth that has taken place over the past two decades in the number and variety of competing information providers in virtually every market. Where the applicant is able to demonstrate the presence in the market of a sufficient number of "voices" to afford readers and listeners a choice among competing sources of news, information, and opinion, waivers should be available on a presumptive basis, without regard to the market's numerical ranking or any other arbitrary cutoff based on size.

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[7] For example, radio station owners who do not also have newspaper interests may own as many as eight stations in a market under the Telecommunications Act of 1996 and the Commission's current rules. A number of Stauffer's radio competitors already own such "expanded complements" of stations. While cable operators may not own local television stations, they are otherwise free to create "clusters" of systems and are able to offer multiple channels of programming and tap multiple revenue streams. Other non-broadcast competitors generally are free of any cross-ownership limitations.

4. An Appropriate Waiver Standard Will Permit a Realistic Assessment of the Geographic Scope of a Market and the Enormous Variety of Information Providers and Advertising Outlets With Which Broadcasters and Publishers Must Compete.

Moreover, in making its assessment of the market, the Commission should utilize a realistic definition of the geographic scope of the market, comparable at a minimum to the industry standards (e.g., Nielsen DMA) used in the context of other cross-ownership analyses. Where a station's actual service area extends beyond the industry-defined market, however, that fact should also be taken into account. Further, Morris and Stauffer agree with NAA, ABC, Cox, Gannett, and other commenting parties[8] that the Commission should not limit its consideration to broadcast "voices" alone, but should take into account a broader range of competing non-broadcast media, e.g., daily and weekly newspapers, cable systems, wireless cable, and other video program suppliers, and "non-traditional" alternatives such as the Internet, in assessing the level of diversity and competition in a particular market.

B. The New Radio/Newspaper Waiver Standard Should Consider Favorably Prior Common Ownership of the Facilities in Question and Afford the Applicant a Full Opportunity to Demonstrate Public Interest Benefits from Joint Operation.

Morris and Stauffer also agree with the predominant view in the opening comments that, where an applicant has satisfied the standard for presumptive waiver, no additional showing of specific public interest programming benefits or other "special circumstances" should be required.[9] However, in addition to whatever "minimum voices" test or other presumptive

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[8] See NAA Comments at 46-48; ABC Comments at 24-27; Cox Comments at 13-16, 18; Gannett Comments at 4; Malrite Comments at 4-6; Pulitzer Comments at 7.

[9] No such requirement is imposed under the Commission's presumptive waiver policy as (Continued...)

standard may ultimately be adopted, the Commission should permit showings by applicants who do not meet the threshold requirements for presumptive approval, to be considered under a flexible case-by-case analysis that permits a full examination of the circumstances of the applicant and the market.

1. Grandfathered and Other Previously Commonly-Owned Combinations Should be Permitted to Be Preserved.

In this regard, Morris and Stauffer support adoption of a waiver standard that would take into account -- either as a factor presumptively warranting waiver or, at a minimum, as a justification for permanent waiver on a case-by-case basis -- the fact that a newspaper/radio combination was grandfathered prior to sale to the applicant in question or had been commonly owned for a substantial period of time in the hands of prior licensees -- assuming, of course, that there has not been a pattern of anticompetitive conduct or other abuse.[10]

WIBW(AM) and WIBW-FM, for example, have been owned by the publishers of the Topeka Capital-Journal since 1957. (Prior to that time, the radio stations were controlled for an additional thirty years by the owner of another publication, Capper's Weekly.) To the best of Morris and Stauffer's knowledge, there has never been any evidence that the stations were

(...Continued)
currently applied in "one-to-a-market" cases (i.e., where radio/television combinations are involved). On the contrary, the Commission has correctly determined that, where a sufficient number of competing voices are present, any concerns with respect to diversity or competition are too attenuated to warrant requiring any additional showing to support a waiver. See Second Report and Order in MM Docket No. 87-7 (Amendment of Section 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules, 4 FCC Rcd 1741, 1743 (1989), recon. granted in part and denied in part, 4 FCC Rcd 6489 (1989).

[10] See NAA Comments at 56; Cox Comments at 21. See also Comments of National Newspaper Association at 4-7.

programmed or had sold advertising in a manner inconsistent with the public interest.[11] On the contrary, the stations' licenses have been regularly renewed by the Commission for many years, and the agency found no cause for concern with respect to diversity or competition in the Topeka marketplace when it granted the current temporary waivers of the rule. Moreover, newspaper ownership unquestionably fostered the development of the stations as vital outlets for local news, agricultural reports, and similar public service programming.

KGNC(AM) and KGNC-FM in Amarillo similarly have a long history of common ownership and, concomitantly, service in the public interest. The station that was the precursor of today's KGNC(AM) was put on the air in 1922 by the Amarillo Daily News. The station's call letters, KGNC, refer to the initials of the former publisher, the Globe News Company. Common ownership of the radio stations and the Amarillo daily paper continued until 1966, when the broadcast stations were purchased by Stauffer. During this period of newspaper ownership, KGNC(AM) was built into a highly respected regional information station, broadcasting local news, farm and ranch reports, and talk programming, often featuring well-known writers and editors from the newspaper. The newspaper/radio alliance made possible considerably more of this type of public interest programming than would ever have been possible for independent owners in most smaller markets.

Morris and Stauffer respectfully submit that the public interest is not served by the Commission's current inflexible standards, which place little or no value on a history of service by broadcast stations under common ownership or control with local daily newspapers and,

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[11] Moreover, as indicated above, prior to the transfer of control to Morris in 1995, Stauffer also was the licensee of WIBW-TV, which has since been sold to Benedek Broadcasting Corporation.

instead, mechanistically require their separation whenever a transfer or assignment to new owners occurs. Accordingly, in modifying its waiver policies, the Commission should incorporate a strong preference for preservation of grandfathered radio/newspaper combinations notwithstanding changes in ownership or control, and allow applicants to rely upon previous histories of common ownership of the facilities involved as well, as part of a public interest showing.

2. Applicants Who Do Not Meet the Threshold Standard for Presumptive Waiver Should Be Permitted to Demonstrate, on a Case-by-Case Basis, That the Proposed Newspaper/Radio Combination Would Serve the Public Interest.

Further, the Commission's new waiver standard should permit applicants, in situations that do not otherwise qualify for presumptive waivers, to make showings of the specific programming or other public interest benefits that would be possible with joint ownership and operation of same-market broadcast and daily newspaper properties. As noted above, under the terms of their current temporary waivers, the co-owned Stauffer and Morris properties in Topeka and Amarillo are required to be separately staffed and, thus, precluded from exploring many of the potential efficiencies and opportunities for improved programming service that would be available through integrated operation. The parties are firmly convinced, however, that joint efforts by the co-located properties would permit substantial additional undertakings that would redound to the benefit of the public.

In a regulatory climate that would encourage cooperative programming and public service efforts between Stauffer's Topeka radio stations and the co-located Topeka Capital-Journal, station management anticipates a number of opportunities for the stations and the newspaper to better serve the residents of the stations' coverage area. In the Topeka market, for example, where agriculture is the most important industry, WIBW(AM) broadcasts a format of farm information, news, talk, and sports programming. It should be noted that WIBW(AM) is one of the last "shared time" stations in the United State. Thus, each week day at 12:30 p.m., WIBW signs off, and KKSU, an educational station operated by Kansas State University in Manhattan, Kansas, signs on and broadcasts on the same frequency for five hours. WIBW(AM) then signs back on at 5:30 p.m. This long-standing sharing arrangement, of course, substantially restricts WIBW's ability to compete in the marketplace, or to provide continuous coverage of important events. Nevertheless, the Topeka AM station broadcasts its own locally produced programming, including hourly newscasts, from 6:00 a.m. until 12:30 p.m. and from 5:30 p.m until 8:00 p.m. daily. WIBW-FM also has it own news staff and develops and presents its own newscasts as an integral part of its daily program -- unlike the "rip and read" approach common among FM stations.

The Stauffer radio stations in Topeka currently employ a three-person farm reporting staff. If they were able to utilize the efforts of the combined farm reporting staffs of WIBW(AM) and the Topeka Capital-Journal, however, WIBW(AM)/-FM could provide significantly improved coverage of the news and events affecting the many area citizens who depend upon agriculture for their livelihood.

Eastern Kansas and the surrounding areas often experience severe weather such as tornadoes, ice storms, and blizzards. No radio station can employ enough reporters to be on hand for every such occurrence. With the far reaching network of "stringers" employed by the Topeka Capital-Journal available to deliver instant eye witness reports, however, live radio coverage by WIBW(AM) and WIBW-FM of severe weather conditions affecting their coverage areas could be greatly improved, again with resulting benefits to the public. Similarly, the availability of "stringers" from the co-owned newspaper would enable the radio stations to provide on-the-spot coverage of natural disasters and other life threatening situations in which the availability of accurate and up-to-date information is vitally important to the safety of the residents of the affected areas.

Day-to-day news coverage of local, state, and even national events also could be significantly increased through use of the combined resources of the Topeka radio stations and the co-owned daily newspaper. For example, the Topeka Capital-Journal has available to it the resources of the Morris News Service, which maintains a Washington News Bureau as well as similar bureaus in Atlanta, Georgia and Austin, Texas. Further, the News Service provides communications links to all of the daily newspapers in the Morris and Stauffer chains. The resources of the News Service could be called upon by the radio stations to supplement or even replace news and public affairs coverage from national networks and other sources which simply cannot be expected to have the sensitivity to concerns in the Topeka market that the local newspaper and its affiliates will have. Utilization of the newspaper's reporters and other resources also could be expected to enable the radio stations to undertake assignments that are now out of reach due to budgetary or personnel limitations, such as investigative reporting efforts and other special reports.

Similarly, radio stations such as WIBW(AM) and WIBW-FM generally are limited in their ability to provide as much news or live coverage as sporting events as their communities of license would like. With the ability to combine efforts with the local newspaper for coverage of events such as state high school sports tournaments, the Topeka radio stations could improve both the quantity and quality of sports coverage, to the benefit of both the radio listening community and the newspaper's readership.

Morris and Stauffer envision similar programming and public service benefits, were KGNC(AM)/-FM and the Amarillo Daily News-Globe Times permitted to continue to operate under common ownership, free of the current separate-staffing requirements. As noted above, during the more than forty-year period during which the Amarillo radio stations were under joint ownership with the daily newspaper, KGNC(AM) established itself as an important source of local news, agricultural information and talk programming. Because of its alliance with the local newspaper, the radio station was capable of broadcasting considerably more of this type of programming than normally would have possible in such a small market. Indeed, news-talk programming is the most expensive, personnel-intensive format in radio. Traditionally, only stations in larger markets are capable of generating the audiences and advertising revenues necessary to sustain the expense of such an operation.

After the former newspaper publisher sold the radio stations to Stauffer, the new owners had to rely more and more on network and syndicated non-local programming. Nevertheless, KGNC(AM) and KGNC-FM have managed to maintain a strong position in terms of informational programming. The AM station still produces a substantial amount of local news and talk programming as well as maintaining a top-ranked agri-business department. Thus, KGNC(AM) airs locally produced, information-oriented programming from 6:00 until 11:00 a.m., noon until 2:00 p.m., and 5:00 p.m. until 7:00 p.m. each day. Like WIBW(AM), the Amarillo AM station provides hourly local newscasts. KGNC-FM in turn is the only music station out of sixteen licensed to Amarillo that presents regular local news programming, produced by KGNC-FM in conjunction with the KGNC(AM) news staff.

In addition, the Stauffer stations are extremely active in community affairs. The KGNC-FM promotion director is involved in approximately 10 events monthly, sponsored by local public service and charitable organizations. The station's representative not only appears at the organization's functions, but also arranges appearances by their representatives on the KGNC-FM morning show.

If common ownership and greater integration of the newspaper and radio station staffs were allowed, the public would receive the benefit of more aggressive farm and ranch coverage in the newspaper, made possible by calling upon the KGNC(AM) agri-business department. The radio stations in turn would be able to take advantage of the "stringer" network maintained by the newspaper across the five-state area surrounding Amarillo, both for dissemination of immediate news stories and for emergency weather reports. As in the case of the Topeka stations, KGNC(AM) and KGNC-FM could take advantage of the resources of the Morris News Service, and the radio and newspaper sports staffs would be able to cover more local sporting events than either could possibly afford on an individual basis. In addition, the combined resources of the radio stations and daily newspaper would make possible more investigative reporting and similar undertakings. The synergies between the radio and newspaper facilities would inevitably result in improved local news, talk, and agricultural programming, which are not provided by other Amarillo area radio stations. The combined operations would also permit KGNC-FM to continue to provide local news coverage, which otherwise is generally unavailable on music stations in the Amarillo market.

The newspaper, too, would benefit from the ability to call upon the resources of the Stauffer radio stations. Thus, the stations could supply the newspaper with record industry news and computer industry news through the KGNC Internet 101 radio program. Further, reporters for the newspaper could participate in the radio call-in and talk shows on news, public affairs, sports, and other topics within their areas of interest and expertise, which would enhance their ability to serve the newspapers readership and provide additional depth of information for the radio listening audience.

As noted previously, both the Topeka and the Amarillo radio stations place a strong emphasis on agricultural programming, which is of vital interest to the residents of both markets. WIBW(AM) carries two hours per day and KGNC(AM) broadcasts ninety minutes-plus of "agri-news" as part of their local programming initiatives. The publishers of both of the co-located newspapers have expressly requested the opportunity to call upon the local news and informational resources -- in particular, the agricultural reporting capabilities -- of the Stauffer radio stations, but are not in a position to do so under the current temporary waivers.

In sum, Morris and Stauffer believe that the combined ownership and operation of daily newspapers and radio stations, even in smaller markets such as Topeka and Amarillo, would pose no significant threat to diversity or competition in the modern information and advertising marketplaces, and would in many cases enable the stations and newspapers involved to provide more and better news coverage and, in general, improved service to the public. Moreover, as noted in the opening comments of NAA, joint owners of co-located media outlets have every incentive to differentiate the information and entertainment offerings of their facilities, in order to maximize their audience reach.[12]

Historically, the Stauffer newspaper and radio properties in Topeka have been operated independently insofar as editorial viewpoint is concerned; the editorial stance of the radio stations has never been dictated by the ownership of the newspaper. The Stauffer radio stations and the Topeka Capital-Journal have competed vigorously both in news coverage and for advertisers. Indeed, WIBW(AM)/-FM station management reports that in the recent past, a number of radio editorials have been in direct conflict with the newspaper's editorial stance.

Similarly, the Amarillo radio and newspaper properties have been operated independently and allowed to compete with each other under Morris' control. Indeed, it is established Morris policy for both its newspapers and its radio stations that each operating unit develop its own editorial viewpoint. There is no "corporate" editorial policy, nor any corporate influence exerted on local editorial policy. Accordingly, it can be expected that editorial content would remain independent in the future, if Morris and Stauffer were permitted to continue to own both newspaper and radio outlets in these two markets or elsewhere. In other words, while the reporting resources of the various properties could be combined on specific projects to the benefit of the public, there is no reason to believe that the editorial voices of the co-owned facilities would be the same.

III. CONCLUSION

For the reasons set forth above, Morris and Stauffer agree with NAA, Gannett, Cox, ABC, and other commenting parties that the Commission should take steps promptly to free broadcasters and newspaper publishers to compete vigorously and effectively with cable and other multichannel providers and the growing array of print and electronic outlets for news, information, entertainment, and advertising. To that end, the Commission should initiate proceedings looking toward the outright repeal of the outdated and discriminatory newspaper/broadcast cross-ownership restrictions.

(...Continued)

[12] See NAA Comments at 31-32.